

Writ Petition no. 27929 of 1996-old number
Writ Petition no. 1310 (S/S) of 2001- new number
Nathu Ram Tamta----- Petitioner
Versus
State of U.P. and others----- Respondents

Hon'ble M.M. Ghildiyal J.

Heard Sri M.C. Kandpal learned counsel for the petitioner and learned Standing Counsel.

By means of this writ petition the petitioner has prayed for a writ of mandamus directing the respondents to permit the petition to work on the post of Seenchpal in irrigation Department, Pratham Up-kahnd, Garur Bageshwar district Almora now district Bageshwar.

The submission of the petitioner is that the petitioner was engaged by the respondents as Seenchpal in April 1992 and continued till September 1996 on daily wages basis. It is the admitted case of the petitioner that he has not continuously worked in the department and there was break from time to time. The petitioner has further submitted that since January 1996 till September 1996 the petitioner has not been paid wages.

Learned Standing Counsel has filed counter affidavit and has submitted that the petitioner was engaged on daily wages as and when the services of the petitioner were required and he has been paid wages for the period for which he has actually worked in the department. Learned Standing Counsel has submitted that since he has not completed 240 days in any calendar year he is not entitled for regularization. Whether the petitioner has worked for 240 days in any calendar year is a matter of fact which cannot be ascertained by which court. The petitioner may approach the labour court for redressal of his grievance. So far as the payment of wages for the period the petitioner has worked it is stated in para no. 15 of the counter affidavit that the petitioner is still working with the respondents and the petitioner has not been paid wages since January 1996. The writ petition was filed in the month of August 1996. In reply to para no. 15 of the writ petition the respondents have not denied the fact. Further in para no. 9 of the rejoinder affidavit the petitioner has submitted that he has worked with the respondents till September 1996.

In view of the above the writ petition is disposed of with the directions to the respondents that in case the petitioner has actually worked with the respondents till September 1996 he shall be paid wages for the period for which he has actually worked.

(M.M. Ghildiyal J.)

August 05, 2003
MPS

